

BILL ANALYSIS

Senate Research Center

S.B. 1119
By: Armbrister
Criminal Justice
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Enrolled

DIGEST AND PURPOSE

Various provisions regarding the bail bond business have become archaic. S.B. 1119 revises various provisions in Section 1704, Occupations Code, regarding the conduct of bail bondsmen. S.B. 1119 also prohibits automatic bond-dispensing machines in jails or courthouses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to a county bail bond board in SECTION 2 (Section 1704.109, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1704.001(2), Occupations Code, to redefine “bail bond surety.”

SECTION 2. Amends Chapter 1704C, Occupations Code, adding Section 1704.109, as follows:

Sec. 1704.109. SOLICITATION AND ADVERTISEMENT. Authorizes a county bail bond board (board) by rule to regulate solicitations or advertisements by or on behalf of license holders to protect the public from harassment, fraud, or misrepresentation.

SECTION 3. Amends Section 1704.152, Occupations Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires an individual, to be eligible for a license under this chapter, including an agent designated by a corporation in an application, to possess the financial resources required to comply with Section 1704.160, unless the individual meets certain criteria.

(c) Provides that Subsection (a)(4) does not apply to the issuance of an original license in a county before the first anniversary of the date a board is created in the country, or to an individual who applies to operate the bail bond business of a license holder who has died if the individual is related to the decedent within the first degree by consanguinity or is the decedent’s surviving spouse.

SECTION 4. Amends Section 1704.154, Occupations Code, by amending Subsections (b) and (c) and adding Subsections (d) and (e), as follows:

(b) Requires an application to state certain information and if, the applicant is an individual, be accompanied by certain information.

(c) Requires a letter of recommendation submitted under Subsection (b)(4)(C) to provide a certain statement and recommendation.

(d) Prohibits the existence of an unpaid final judgment disclosed under Subsection (b)(4)(H) from barring licensure but provides that it may be considered by the board in determining whether to grant a license to the corporation with that agent.

(e) Requires a corporation to file a separate corporate application for each agent the corporation designates in the county. Makes conforming changes.

SECTION 5. Amends Section 1704.155, Occupations Code, as follows:

Sec. 1704.155. REAL PROPERTY LIST. Provides that a list of nonexempt real property required under Section 1704.154(b)(3), rather than Section 1704.154(b)(3)(A), must, for each parcel listed, include certain information.

SECTION 6. Amends Sections 1704.160(a)-(c), Occupations Code, as follows:

(a) Requires the applicant who is subject to Subsection (b), on receipt of notice that an application has been conditionally approved, deposit with the county treasurer within 90 days a cashier's check, certificate of deposit, or cash in the amount stated on the application under Section 1704.154(b)(2)(E), rather than 1704.154(b)(3)(B). Requires an applicant which is a corporation subject to Subsection (b), to deposit with the county treasurer within 90 days a cashier's check, certificate of deposit, or cash in the amount stated on the application under Section 1704.154(b)(2)(E).

(b) Prohibits a deposit made under Subsection (a)(1)(A) or (a)(2) from being less than \$50,000. Deletes text stipulating that a deposit may not be less than \$10,000.

(c) Deletes text stating the value is prohibited from being less than \$10,000 in a county with a population of less than 250,000.

SECTION 7. Amends Section 1704.163, Occupations Code, as follows:

Sec. 1704.163. ATTORNEY EXEMPTION. (a) Authorizes a person not licensed under this chapter, except as provided by this section, rather than Subsection (c), to execute a bail bond or act as a surety for another person in any county in this state if the person meets certain criteria.

(b) Prohibits a person executing a bail bond or acting as a surety under this section from engaging in conduct involved with that practice that would subject a bail bond surety to license suspension or revocation. Prohibits the person, if the board, rather than sheriff, determines that a person has violated this subsection, from executing a bail bond or acting as a surety under this section until the person has remedied the violation.

SECTION 8. Amends Section 1704.207(b), Occupations Code, to delete text regarding an agent of the board.

SECTION 9. Amends Section 1704.211, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires an agent designated by a power of attorney under Subsection (a) for a corporation holding a license under this chapter to be designated by the corporation in the corporation's application for a license. Deletes text regarding "holder."

(d) Authorizes the corporation to limit the authority of an agent designated under Subsection (a) by specifying the limitation in the power of attorney that is filed with the county clerk and the board.

SECTION 10. Amends Section 1704.212(c), Occupations Code, to provide that for purposes of this section a corporation is considered in default on a bail bond beginning on the 11th day after the date the trial court enters a final judgment on the scire facias and ending on the date the judgment is satisfied, set aside, or superseded, and a corporation is not considered in default on a bail bond if, pending appeal, the corporation deposits cash or a supersedeas bond in the amount of the final judgment with the court in which the bond is executed.

SECTION 11. Amends Chapter 1704E, Occupations Code, by adding Section 1704.213, as follows:

Sec. 1704.213. OFFICE LOCATION. (a) Requires a license holder to maintain an office in the county in which the license holder holds a license.

(b) Requires a license holder, not later than the seventh day after the date a license holder opens a new office or moves an office to a new location, to notify the board of the location of the office.

SECTION 12. Amends the heading of Section 1704.302, Occupations Code, to read as follows:

Sec. 1704.302. PROHIBITED REFERRALS OF OR EMPLOYMENTS WITH BONDING BUSINESS; OFFENSE.

SECTION 13. Amends Section 1704.302, Occupations Code, by adding Subsection (c) and by redesignating former Subsection (c) as Subsection (d), as follows:

(c) Prohibits a person from accepting or receiving from a license holder certain items as payment for employment with a bonding business if, within the preceding 10 years, the person has been convicted of a misdemeanor involving moral turpitude or of a felony.

SECTION 14. Amends Sections 1704.303(b) and (c), Occupations Code, as follows:

(b) Prohibits a person from advertising as a bail bond surety in a county unless the person holds a license issued under this chapter by a bail bond board in that county. Provides that a person does not violate this subsection if the person places an advertisement that appears in more than one county and the advertisement meets certain conditions.

(c) Provides that an offense under this section is a Class B, rather than C, misdemeanor.

SECTION 15. Amends Section 1704.304, Occupations Code, by adding Subsection (d) and redesignating current Subsection (d) as Subsection (e), to prohibit a person from placing a device in a place of detention, confinement, or imprisonment that dispenses a bail bond in exchange for a fee.

SECTION 16. (a) Provides that except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an application for a bail bond license or to renew a bail bond license that is made on or after the effective date of this Act.

(b) Makes application of Section 1704.152, Occupations Code, prospective to September 1, 2002.

SECTION 17. Provides that the change in law made by this Act to Section 1704.302(c), Occupations Code, applies only to a person employed by a bonding business after the effective date of this Act.

SECTION 18. (a) Provides that the change in law made by this Act to Section 1704.303, Occupations Code, applies only to an offense committed on or after the effective date of this Act.

(b) Makes application of this section prospective.

SECTION 19. Effective date: September 1, 2001.